Clifford Durr Writes on the Death of Paul Crouch, See Page Three

I. F. Stone's Weekly

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The (Test) Case of the Unwanted Subscription

Why the *Weekly* Rejected That $5 from Senator Eastland

On Friday, December 1 the *Weekly* received a letter from the Senate Internal Security Subcommittee, signed by its records manager, asking for a one-year subscription. Enclosed was a $5 voucher processed for signature by the chairman, Senator Eastland, and the chief counsel, J. G. Sourwine. On Monday, December 5, the *Weekly* had summonses issued for Senator Eastland and his eight colleagues of the subcommittee; for Mr. Sourwine and for Benjamin Mandel, its research director. The summonses were issued in a test case filed in U. S. District Court here in Washington that morning by I. F. Stone acting as his own counsel.

The day before the *Weekly* wrote Senator Eastland rejecting the subscription on the ground that it would constitute an unlawful expenditure of public funds under the First Amendment. The Senator was put on notice that the letter and voucher would be submitted to the district court in a civil suit asking (1) an injunction forbidding the use of the subcommittee's funds in purchasing and compiling newspapers for purposes of surveillance under the "internal security" program, (2) for a declaratory judgment ruling that surveillance of the press by the subcommittee was unauthorized and unconstitutional, and (3) for an order requiring the subcommittee to produce in court its unlawfully gathered dossiers on newspapers and newspapermen for such disposal as the judge deemed proper. This was the substance of the suit filed on Monday.

Not Just Man-Bites-(Large)-Dog

This was not intended merely as a man-bites-(exceptionally large) dog story. The hearings begun by the subcommittee last Monday in New York on the "infiltration" (such is the vocabulary of paranoid melodrama) of the press are sufficient indication of the subcommittee's belief that it can act as a thought police over newspapers and newspapermen. It is hardly a secret around Washington that the subcommittee has been building dossiers on the press. The arrival of the letter and the $5 voucher seemed admirably to pin-point this morbid interest, and to furnish an occasion for asking the courts to take judicial cognizance of the subcommittee's activities in the newspaper field and to rule on its propriety.

The *Weekly* is anxious to reach as many people as possible and would be happy to have Senator Eastland, his colleagues and their employes as subscribers in their personal capacity. We are only challenging their right to use the funds of the Internal Security subcommittee and its employes to buy newspapers and other publications for analysis and compilation in watching the press for ideas they may consider possibly dangerous to internal security. Such activity is not authorized by the resolution establishing the subcommittee, nor by the Reorganization Act of 1946 setting forth the powers of the parent Senate Judiciary Committee, and it is in violation of the First Amendment.

"It's Bunk," The Senator Declares

"Sen. James O. Eastland (D. Miss.), chairman of the subcommittee was reached in Mississippi for comment on the suit [by *Stone's Weekly*]. 'It's bunk,' the Senator declared."

—*Washington Post and Times-Herald, Dec. 6.*

Even Under the Cloak of Conformity

It seems to us a very grave matter for the future of the newspaper profession and of this country to begin to take for granted that a Congressional committee may keep the press under surveillance on one excuse or another, whether to hunt suspected Communists or other radicals. Fundamental liberties would soon be swallowed up in the quicksands of the witch hunt. At each step we would find ourselves sinking further away from the traditional standards of a free society. One way to detect subversives is by what they write; what they write must therefore be subject to governmental scrutiny. Since they will presumably seek to confuse the sharp eye of the secret inquisitor, he must be on the lookout not just for the overtly revolutionary but for whatever seems covertly to move in that direction. He must peep under the cloak of conformity itself.

The Senate subcommittee, in the name of protecting "internal security," is reviving in thin new guise the old common law of seditious libel which the United States rejected at the very inception of the Republic and England long ago abandoned. This old law and its evil consequences were authoritatively described in a passage from Cooley's *Constitutional Limitations* which Chief Justice Hughes cited with approval in the famous case of *Near v. Minnesota* (283 U.S. 697) when the Supreme Court invalidated injunctions even against consistently "malicious, scandalous and defamatory" gutter publications, lest this restrict freedom of the press.

A Law Against Dangerous Thoughts

"At the common law," Cooley wrote (*Constitutional Limitations*, Vol. II, p. 898), "it was indictable to publish anything against the constitution of the country or the established system of government. The basis of such a prosecution was the *tendency* [italics added] of publications of this character to excite disaffection with the government, and thus induce a rev-

(*Continued on Page Four*)

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"It Is No Crime to Champion Economic Planning" Hearing Examiner Rules

Edward Lamb Wins First Round in His Long Battle at the FCC

The long nightmarish ordeal of Edward Oliver Lamb, publisher of the Erie, Pa., *Dispatch* achieved a brief respite and an intermediate victory in the decision handed down by Hearing Examiner Herbert Sharfman at the Federal Communications Commission last week. But this, in the FCC's terminology, is only an "initial" ruling, subject to reversal or modification by the Commission itself. For Lamb the toughest hurdle is still ahead.

The Sharfman decision—140 pages single spaced—has the effect of doing justice to Lamb while saving face for the Commission. The hearing examiner recommended the renewal of Lamb's license for TV station WICU in Erie, Pa., and found "no proof that Lamb personally engaged in any subversive activity." This conclusion was reached at the end of the most fantastic if not the longest hearings ever held by any administrative agency.

From September 15 of last year until May 24 of this, Sharfman heard 32 witnesses (their testimony covers 7,000 pages). Among them were several platoons of ex-Communists and informers marshalled by the FCC's Broadcast Bureau in its zealous effort to wrest that TV license from Lamb.

Two Informers Recanted

Two of these ex-Communist witnesses, Mrs. Marie Natvig and Lowell Watson, recanted their testimony. The former declared "only an idiot would have put any credence in what I said" and accused a former FCC lawyer of "coercing" her testimony. She was prosecuted for perjury in making this accusation and her conviction is now on appeal. Watson made a similar charge, declaring that his testimony was the result of "coaching, conditioning and misleading conversations."

Most famous of these witnesses was Louis Budenz. Lamb, careful to depend on "recollection" in much of his testimony rather than on direct statements, gave Budenz the lie direct. Lamb called testimony by Budenz about a meeting with Lamb and Yetta Land, a leading Ohio Communist, a "conscious, outrageous falsehood."

Lamb himself now eminently respectable mustered as character witnesses such Democratic notables as Senator Kefauver and Mayor David Lawrence of Pittsburgh; the chief counsel in his defense was former Attorney General McGrath.

No Wrongdoing Alleged

The record in the Lamb case is voluminous but the keys to it are simple. The first is on page 9 of Sharfman's decision where he says "no question has been raised by the Commission as to the programming of Lamb's stations" and that it can therefore be assumed that the FCC "has been entirely satisfied in this respect." The effort to take Lamb's license away from him is not based on any allegation that he has abused his privileges as a broadcaster, or failed to operate "in the public interest."

The second key to the maze lies in Sharfman's handling of Lamb's charge that the whole proceeding was illegal in that the FCC was exceeding its authority "by inquiring into past alleged communist beliefs, associations and affiliations of Edward Lamb . . . especially in view of the fact that even if Mr. Lamb has held the alleged beliefs and maintained the alleged affiliations and associations, he would not have been guilty of any wrong-doing."

The hearing examiner saves face for the FCC by ruling that the case "involves no inquiry into Lamb's past associations and conduct, as such, but is concerned solely with alleged misrepresentation." No figleaf was ever more transparent.

Poor Fellow Wrote A Book

Lamb as a lawyer in the thirties was active in the defense of labor and of radicals in civil liberties cases. He also had the misfortune to write a book 21 years ago on "The Planned Economy in Soviet Russia." Some of the organizations with which he worked as defense counsel have since been put on the Attorney General's list. The book praised economic planning. He was accused of "misrepresentation" by denying that these past activities and writings were "subversive."

The Broadcast Bureau in raking up this past seems to have been carried by passion far beyond the limits of discriminating judgment. It put into evidence (FCC Exhibit 98a) the old 1931 report of the Ham Fish committee, predecessor in Congress of the Un-American Activities Committee. This notoriously frenetic bit of rubbish actually "found" that the American Civil Liberties Union "attempts not only to protect crime but to encourage attacks upon our institutions in every form."

Sharfman's conclusions about Lamb's past ideas and associations took considerable courage in the current atmosphere. He ruled that Lamb's "professed sympathy with the underdog," his "espousal of 'liberal' causes" and his "possible naivete" could not "be transformed into something more sinister."

Washington's Dirtiest Words

Sharfman's findings on the book Lamb published in 1934 are startling and refreshing in a Washington where "planned economy" have been dirty words since the right destroyed the National Resources Planning Board in the late 30's.

"It is no crime to champion planning," Sharfman calmly concludes, "and to the Hearing Examiner it is a matter of complete indifference, so far as this case is concerned, whether Lamb stood for an assumption of title to the means of production. There would have been nothing un-American or unconstitutional in doing so, provided it was not proposed that such a transfer of ownership be achieved by other than constitutional means. Fabian socialism, however impracticable it may be considered by doctrinaire Communists, and however it may run counter to our prevailing notions of free enterprise, is possible within the framework of our present constitution, by amendment, if necessary."

Twenty years hence this may sound trite and obvious. It is sober truth that to say them here today is to risk one's career. We raise our hat to a brave and enlightened man.

Unfit to Print?

The newspapers of New York City seem to believe that if they print no news about the Eastland committee investigation of newspapermen which opened there last Monday maybe the committee will get discouraged and go away. The *Herald-Tribune* on Tuesday and Wednesday ignored the hearings altogether, the *New York Times* buried the news in a few paragraphs inside.

The *New York Post* alone protested in an editorial "The Untold Story" last Wednesday: "The real issues are whether this inquiry was even remotely warranted, and whether newspapers can afford to regard the news as incidental trivia."

The inside story we printed last week on the *Times* and the witch hunt was on sale in New York Friday December 2 but did not appear in the daily press until the *Post* printed the same details five days later. It disclosed that the New York Newspaper Guild had intervened in the new firing at the *Times* of an employe who said he would take the Fifth rather than inform on others. What little news leaked out of the three days of Eastland committee executive sessions in New York confirmed the report that the Newspaper Guild and the *New York Times* were prime targets.

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Our Guess on What the Supreme Court Will Do In The Immunity Case

The Democratic National Committee should have been in court last week as *amicus curiae* when Leonard Boudin ably argued the Ullmann immunity appeal before the U.S. Supreme Court. . . . The revived prosecution of William L. Ullmann was neatly timed to revive the "twenty years of treason" cry and the Harry D. White charges against the Democratic party in time for use in the presidential campaign. . . . If the immunity law is upheld, Ullmann will have a choice of going to jail for contempt or again telling under oath the same story he told the FBI in 1947 (and at least two grand juries and the House Un-American Activities Committee afterward). . . . Then he denied all her charges, the charges on which Attorney General Brownell and J. Edgar Hoover relied in their posthumous attack on Harry White and through White on Harry Truman. . . . On the heels of the new denials, Ullmann could be tried for perjury just about the time the campaign was getting hot —and dirty. . . .

It is not often that the Supreme Court has a case so supercharged with politics. . . . The Chief Justice will undercut the Republican campaign if Ullmann goes free. . . . Truman's Attorney General, Tom Clark, will be passing indirectly on a smear charge against the President who appointed him. . . . In addition the Court confronts a difficult legal question. . . . If it declares all compulsory testimony unconstitutional under the Fifth amendment, it will invalidate a whole series of measures since the 1890's permitting compulsory testimony in economic regulatory hearings before the ICC and similar agencies. . . . To distinguish these from First Amendment cases, as Mr. Justice Frankfurter emphasized by sharp questioning during oral argument, would be impossible. What, he asked, would you do in the case of sabotage, which is neither economic nor political? . . . The Court could, of course, evade these difficulties by declaring this particular statute unconstitutional on the technical ground that it violates separation of powers by permitting the judge to share in the non-judicial function of determining when immunity can be granted. . . . Our guess is that this is what a majority will do. . . . This would defend the Fifth amendment and free Ullmann, without saying that Congress could under no circumstances ever pass a compulsory testimony law. . . . It took McCarran *and* the Korean war four years to get this immunity law through Congress and many years may pass before there is another. . . .

Just "Prophylactic"

"Where the effect of political heresy is as serious as it is today, the dissenter is subject to penalties and forfeitures which are more drastic than criminal prosecution. . . . Only the most menial and low-paying work is now available to many persons who have been branded as subversive by congressional committees, administrative agencies or the daily press. . . . If the privilege [against self-incrimination] is to have any meaning in the current context, these sanctions must be regarded as reason for invoking the privilege. In an analogous period of religious oppression, the 18th Century, the English equity courts allowed witnesses to be silent where admissions of papacy would result in property loss."

—Defense Brief in the Ullmann Immunity Appeal, pps. 16-19.

"The possible "disabilities' petitioner lists . . . are prophylactic measures designed to remove dangerous or unsuitable persons from areas in which they can do harm, but they are not punitive or criminal sanctions."

—The Government's Reply in its main brief, p. 25.

A Letter Neither New York Times Nor Washington Post Would Publish

A Noted Victim of Paul Crouch Writes The Informer's Obituary

By Clifford J. Durr

As one of the many targets of Paul Crouch, I would like to make a few observations, prompted by the story of his death. If headlines are the test, Crouch's death was less newsworthy than his destructive assaults on the reputations of others. In a matter of a few months, he had passed from the glare of the spotlight into comparative obscurity.

During his lifetime he knew fame and glory and the excitement of intrigue. For nearly a decade he made his living in what has formerly been regarded as one of the most contemptible of all trades, that of informer. Again and again, not only the inconsistencies but the sheer fabrications in his testimony were exposed, but to little purpose. Public officials continued to vouch for his reliability and the nobility of his character. The following from the United States Senator, James O. Eastland, are just a few of many illustrations that could be given:

"You should be honored to know that man."

"The Attorney General has vouched for your veracity."

"Let me say right here that the Chair thinks he knows what he is talking about, that the FBI has gotten some very valuable information from this man and has confidence in what he says."

Crouch's most lurid confessions of past perfidy, deceit and treachery became, it seemed, a guarantee of his current veracity and patriotism. The power of men in high places continued to flow through him, to destroy the reputations of countless American citizens and to deprive many of their liberty. Because he served their purpose, they sheltered and guarded him and paid him in the taxpayer's money and in fame. They sanctified his words with their benediction of their own exalted positions and, lest the truth of his words be challenged, they wrapped him in the mantle of the Government's own immunity. When he had finished speaking, they printed and bound his words and sent them in official reports throughout the land to serve as permanent storage bins of suit proof libel, from which the sick-minded, the unscrupulous and all who have a grudge were invited to help themselves.

How should we judge the Crouches? In less excited and healthier times, they would be of no importance, except in so far as the lives of even the sick and broken in body and mind continue to matter. They would certainly have no power. How can people be made to see and understand that the Crouches, as destructive as they are, are not the source of evil, but its mere conduit?

In his testimony before the Courts, Congressional Committees, and Loyalty Boards, Crouch did just what he was hired to do and, whatever may be said about him, he gave his employers full value of what they wanted of him. He died lonely and despised by those who used him. Those who hired him remain respectable and powerful. They used him and when he was no longer useful they threw him aside. There are plenty of others to take his place. His very death was a final act of service to his hirers, for by it he became purged of his evil doing and they, of their responsibility for using him, for of the dead we should speak only good. Our Attorney General will now be spared the embarrassment of answering questions about the progress of his long delayed "study" of Crouch's conflicting testimony or about what is being done to right the wrongs done his victims.

Isn't it high time that we recognize that the responsibility for bearing false witness does not lie solely in the mouths that utter the false words?

History teaches, over and over again, the grim lesson that the informer system will corrupt and destroy any nation that uses it. It is beginning to corrupt and destroy our own country and it is time that it be ended.

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"Internal Security" Was Also The Excuse for the Old Law of Seditious Libel

A Worse Menace to Freedom of the Press Than Huey Long's Tax

(*Continued from Page One*)

olutionary spirit. . . . If any such principle of suppression should ever be recognized in the common law of America, it might reasonably be anticipated that in times of high party excitement it would lead to prosecutions by the party in power, to bolster up wrongs and sustain abuses and oppressions by crushing adverse criticism and discussions."

George III Used The Same Logic

It was in the name of protecting "internal security" that editors were prosecuted by the Crown in Eighteenth Century England and America. The law of seditious libel was intended to facilitate a hunt for subversives and subversive writing like that now being carried on by Senator Eastland as the successor of the late Senator McCarran at the helm of the Senate Internal Security subcommittee. The First Amendment, in forbidding Congress to abridge freedom of the press, was intended to protect against any attempt to revive such restrictive doctrines in this country.

Chief Justice Hughes quoted Madison, "the Father of the Constitution," on this very point in that same decision in *Near v. Minnesota.* "This security of the freedom of the press," Madison wrote in the Virginia resolution against the Alien and Sedition laws, "requires that it should be exempt not only from previous restraint by the executive, as in Great Britain, but from legislative restraint also." It need hardly be argued at this late date in the witch hunt that a Congressional investigation, calling up newspapermen for interrogation on their political views and associations, acts as a very effective restraint. The Supreme Court has held on several recent occasions, notably in the Emspak and earlier in the Rumely case, that the power of Congress to investigate is limited under the First Amendment.

Worse Than Huey Long's Tax

The Court has already held that indirect as well as direct limitations on freedom of the press are unlawful. When Huey Long ruled Louisiana he imposed a two percent gross receipts tax on advertising revenue. This was not on its face excessive but the Supreme Court threw it out on the ground that such a tax could be used by Long to punish and extinguish a critical press. On that occasion Mr. Justice Sutherland wrote a landmark decision in the law of freedom of the press (*Grosjean v. American Press,* 297 U.S. 233). In this, again quoting from Cooley, the Supreme Court said that in the framing of the First Amendment "The evils to be prevented were not the censorship of the press merely, but any action of the government by means of which it might prevent such free and general discussion of public matters. . . ."

The terror instilled by the Eastland committee, the wake of blasted careers it leaves behind, are far more effective restrictions than a two percent gross advertising receipts tax would be. We believe some means must be found to bring the newspaper investigation to a halt under the First Amendment, and think it a pity that no big and influential publisher has the nerve to take the offensive and challenge the subcommittee's powers in a some such way as we have chosen. Whether our action is won or lost, some action like it will some day be victorious. In the meantime we invite other newspapers and newspapermen to support our petition to the end that the Senate subcommittee may at least be subject to questioning in open court on its activities and purposes in regards to the press. This is the spirit in which we have filed suit.

Subscription Rejected

"Dear Senator Eastland:

"I am in receipt of a letter from Dorothy C. Baker, the Records Clerk of your Internal Security Subcommittee, asking that the Weekly be sent regularly to the Subcommittee and attaching a $5 voucher for a one-year subscription prepared for signature by you and Mr. Sourwine.

"I am compelled to reject this subscription because it would involve an unconstitutional expenditure of public funds under Article I and the First Amendment to the Constitution."

Sincerely yours

I. F. STONE

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